

REMARKS

This communication is a full and timely response to the non-final Office Action dated April 28, 2005 (Paper No./Mail Date 20050407). By this communication, claims 1, 2, and 7 have been canceled without prejudice or disclaimer of the underlying subject matter, and claims 12-17 have been added.

Each of claims 12-17 recite that the splicing data is read from said data storage means so that a locus of used bits the buffer state of the data receiving terminal is continuous. Support for the subject matter recited in claims 12-17 can be found variously throughout the specification, for example, in paragraphs [0067]-[0069] of corresponding U.S. Patent Application Publication No. 2002-0023269. No new matter has been added.

Claims 3-6 and 8-17 are pending where claims 3 and 8-11 are independent.

Rejections Under 35 U.S.C. §102

Claims 1, 2, 7, and 9 were rejected under 35 U.S.C. §102(b) as anticipated by *Moeller*—U.S. Patent No. 5,828,370. Applicant respectfully traverses this rejection.

Claims 1, 2, and 7 have been canceled without prejudice. Thus, the rejection with respect to these claims is moot and should be withdrawn.

Claim 9 recites a data distribution method for distributing special playback data by using playback data and splicing data stored in a data storage unit to a receiving terminal, said data distribution method comprising the steps of receiving a special playback request from an external source; reading the playback data from said data storage unit in response to the special playback request; decoding the read playback data so as to generate a special playback signal; encoding the generated special playback signal so as to generate special playback data; and reading the splicing data from said data storage unit so that a locus of used bits of a buffer state of the receiving terminal is continuous, and transmitting the encoded special playback data or the encoded splicing data to the receiving terminal via a transmission medium.

Moeller discloses a system and method for displaying a graphical icon on a display screen. During operation, a user manipulates a cursor 55 within a slider bar 54 using a remote control 56. The set top box 57 receives and processes the signals and provides the information resulting from the user's action to the video server 50. The video server 50 may access compressed video streams from storage media and provide it to the display unit of the user. The streams are encoded and decoded using MPEG technology.

Moeller, however, fails to disclose, teach, or suggest at least reading the splicing data from said data storage unit so that a locus of used bits of a buffer state of the receiving terminal is continuous. At best, *Moeller* merely discloses that the video server provides the requested information to the display unit of the user. Furthermore, the Office Action acknowledges that *Moeller* fails to disclose at least this element as similarly recited in claims 3, 5, and 8-11. Accordingly, *Moeller* fails to anticipate claim 9.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. See Verdegall Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). *Moeller* fails to disclose, teach, or suggest every element recited in independent claim 9, therefore this claim is not anticipated by *Moeller*. Accordingly, Applicant respectfully requests that the rejection of claim 9 under 35 U.S.C. §102 be withdrawn, and this claim be allowed.

Rejections Under 35 U.S.C. §103

Claims 3-6, 8, 10, and 11 were rejected under 35 U.S.C. §103(a) as unpatentable over *Moeller* in view of *Yanagihara*—U.S. Patent No. 6,697,432. Applicant respectfully traverses this rejection.

Claim 3 recites a data distribution apparatus comprising receiving means for receiving a special playback request from an external source; data storage means for storing playback data, and also storing special playback data and splicing data, both of which are used for playing back the playback data in a special mode; data switching means for reading the special playback data from said data storage means in response to the special playback request received by said receiving means, and for reading the splicing data from said data storage means according to a buffer state of a data receiving terminal; and transmission means for transmitting the special playback data or the splicing data from said data switching means to the data receiving terminal via a transmission medium.

Claim 5 recites a data distribution apparatus comprising receiving means for receiving a special playback request from an external source; data storage means for storing playback data and splicing data; decoding means for reading the playback data from said data storage means in response to the special playback request, and for decoding the read playback data so as to generate a special playback signal; encoding means for encoding the special playback signal generated by said decoding means so as to generate special playback data; data switching means

for selectively reading the special playback data obtained by said encoding means and the splicing data read from said data storage means according to a buffer state of a data receiving terminal; and transmission means for transmitting the special playback data or the splicing data from said data switching means to the data receiving terminal via a transmission medium.

Claim 8 recites a data distribution method for reading special playback data from a data storage unit to a receiving terminal, said data storage unit storing playback data, and also storing the special playback data and splicing data, both of which are used for playing back the playback data in a special mode, said data distribution method comprising the steps of receiving a special playback request from an external source; reading the special playback data from said data storage unit in response to the special playback request; reading the splicing data from said data storage unit according to a buffer state of the receiving terminal; and transmitting the special playback data or the splicing data to the receiving terminal via a transmission medium.

Claim 10 recites a data distribution system for distributing data which includes special playback data from a data distribution apparatus to a terminal device, said data distribution apparatus comprising receiving means for receiving a special playback request from an external source; data storage means for storing playback data, and also storing special playback data and splicing data, both of which are used for playing back the playback data in a special mode; data switching means for reading the special playback data from said data storage means in response to the special playback request received by said receiving means, and for reading the splicing data from said data storage means according to a buffer state of a data receiving terminal; and transmission means for transmitting the special playback data or the splicing data from said data switching means to said terminal device via a transmission medium, and said terminal device comprising receiving means for receiving the data transmitted from said data distribution apparatus; and decoding means for decoding the data received by said receiving means.

Claim 11 recites a data distribution system for distributing data which includes special playback data from a data distribution apparatus to a terminal device, said data distribution apparatus comprising receiving means for receiving a special playback request from an external source; data storage means for storing playback data and splicing data; decoding means for reading the playback data from said data storage means in response to the special playback request, and for decoding the read playback data so as to generate a special playback signal; encoding means for encoding the special playback signal generated by said decoding means so as to generate special playback data; data switching means for selectively reading the special

playback data obtained by said encoding means and the splicing data read from said data storage means according to a buffer state of a data receiving terminal; and transmission means for transmitting the special playback data or the splicing data from said data switching means to said terminal device via a transmission medium, and said terminal device comprising receiving means for receiving the data transmitted from said data distribution apparatus; and decoding means for decoding the data received by said receiving means.

In summary, claims 3 and 10 recite reading the splicing data from said data storage means according to a buffer state of a data receiving terminal, claims 5 and 11 recite reading the special playback data obtained by said encoding means and the splicing data read from said data storage means according to a buffer state of a data receiving terminal, and claim 8 recites reading the splicing data from said data storage unit according to a buffer state of the receiving terminal.

The Office Action acknowledges that *Moeller* fails to disclose, teach, or suggest at least reading data according to a buffer state of a data receiving terminal, and relies on *Yanagihara* to remedy this deficiency. Applicant respectfully submits, however, that *Yanagihara* is not prior art.

The instant application was filed on June 11, 2001 and is wholly owned by Sony Corporation as evidenced by the recorded Assignment on Reel 012230 at Frame 0500. *Yanagihara* published as U.S. Patent Application Publication No. 2003-0133509 on July 17, 2003, issued on February 24, 2004, and is also wholly owned by Sony Corporation. MPEP §706.02(l)(1) states “[e]ffective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention ‘were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.’ This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution application filed under 37 CFR 1.53(d), and reissues.” Because *Yanagihara* and the instant application are both owned by Sony Corporation and the instant application was filed after November 29, 1999, Applicant respectfully submits that *Yanagihara* is not prior art. Thus, a *prima facie* case for obviousness has not been established. Accordingly, Applicant respectfully requests that the rejection of claims 3-6, 8, 10, and 11 under 35 U.S.C. §103 be withdrawn, and these claims be allowed.

Newly Added Claims

Claims 12-17 have been added. Claim 12 depends from claim 3, claim 13 depends from claim 5, claim 14 depends from claim 8, claim 15 depends from claim 9, claim 16 depends from claim 10, and claim 17 depends from claim 11. Each of claims 12-17 additionally recites that the splicing data is read from said data storage means so that a locus of used bits the buffer state of the data receiving terminal is continuous. By virtue of their dependency, Applicant respectfully submits that claims 12-17 are allowable for at least the same reasons discussed above with regard to their respective base claims. In addition, Applicant submits that these claims are further distinguished over the prior art of record by the additional elements recited therein, and particularly with respect to each claimed combination. Accordingly, Applicant respectfully requests that claims 12-17 be examined and allowed.

Conclusion

Based on at least the foregoing amendments and remarks, Applicants submit that claims 3-6 and 8-17 are allowable, and this application is in condition for allowance. Accordingly, Applicants request favorable reexamination and reconsideration of the application. In the event the Examiner has any comments or suggestions for placing the application in even better form, Applicants request that the Examiner contact the undersigned attorney at the number listed below.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. SON-2141 from which the undersigned is authorized to draw.

Dated: July 28, 2005

Respectfully submitted,

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